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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,205	12/19/2001	Robert L. Clarke	KCX-459 (16596)	4932
22827	7590	04/26/2004	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			FORTUNA, JOSE A	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/025,205	CLARKE ET AL.
	Examiner José A Fortuna	Art Unit 1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 March 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 10-14 and 16-23 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9 and 15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 December 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>03/02, 05/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of group I, specie of claims 1-9 in Paper Mailed/Received on March 24, 2004 is acknowledged. It is noted however, that applicants included claims 16-18 to be examined with claims 1-9 and 15, this is incorrect since claims 16-18 are drawn to a method which is a separate invention. Claims 1-9 and 15 would be examined.
2. Claims 10-14 and 16-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper mailed/Received on March 24, 2004.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
  1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linkletter, US Patent No. 4,087,319 as evidenced by Schmitt et al., US Patent No. 4,036,684 or Kankaanpää et al., US Patent No. 4,059,482 or Hill, US Patent No. 3,855,057 or Cole et al., US Patent No. 3,432,936.

Regarding claims 1, 9 and 15, Linkletter teaches a method of transfer a paper web from a drying section of the paper machine to reel-up, see abstract and figures. Linkletter teaches that the web is creped using a doctor system, creping station (9), and transferred to a first transfer fabric/belt (14), which is then sandwiched between said first fabric and a second fabric 38, see figures and column 5, lines 5-18. Linkletter is silent with regard to using a vacuum to transfer the sheet to the first transfer fabric; however, using a vacuum pick-up roll to transfer a web from one part of the paper machine to another is very well known in the art, as evidenced by the secondary references above, Schmitt et al., Kankaanpää et al., Hill and Cole et al. to name a few. The advantages of using such systems, i.e., a vacuum roll over just a pick-up, are well known in the art, increase adhesion of the web onto the roll/fabric eliminating or minimizing breakage and fluttering of the web, which as

consequence the paper-machine could be run a greater speed and more economically, i.e., minimize breakage, which minimize down-time, etc. Therefore, to use a vacuum in the pick-up roll (15) of Linkletter would have been obvious to one of ordinary skill in the art in order to obtain the advantages discussed above.

Regarding claims 2-8, Linkletter is silent with regard to the open draw distance and the holding means of the second conveyor and the levels of vacuum. However, optimizing result effective variables is within the levels of ordinary skill in the art, absent a showing of unexpected results.

Claims 1-3, 9 and 15 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wedel, US Patent No. 5,037,509. Wedel teaches, see figure 1, a transferring system in which a web is transferred from a roll to a first fabric (28) defining the first moving conveyor/fabric, the first fabric having a rotatably vacuum device (26) disposed against its internal surface to attract the web, see figure 1. A second fabric is disposed downstream from said first fabric and overlap at a predetermined distance and carrying the web sandwiched between the first and second fabrics to a predetermined run. The only difference between the claimed invention and the one disclosed by the reference is that in the structure disclosed by Wedel, the transferring system is located upstream from the dryer instead of downstream from it. However, one of ordinary skill in the art would have reasonable expectation of success if the same system were used for the transferring a dried, creped web to the reeling section of the paper machine. Note that Wedel system is inherently capable of being used in such a way. The only difference between the above claims and Wedel system is in the intended use of the system and held that it has been held that a recitation with respect to the

manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure in the art of "System for transferring a paper web."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José A Fortuna whose telephone number is 571-272-1188. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



José A Fortuna  
Primary Examiner  
Art Unit 1731

JAF